IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO.9764 OF 2004

Shri.Pradipkumar Purushottam
Bagade and Ors. ..Petitioners

Vs.

The Debts Recovery Tribunal
Pune and Ors. ..Respondents

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Mr.Anil V.Anturkar for Petitioners
Smt.M.G.Kulkarni for Respondent no.2.
M/s.Shekhar & Co.for Respondent nos.5 and 6
Mr.S.V.Pitre for Respndent Nos.8 to 12

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CORAM : B.H.MARLAPALLE,J.
DATE : MARCH 11,2005

P.C.:

1. Heard Mr.Anturkar, the learned counsel for the petitioners who are the employees, students etc. of the college run by the respondent no.3-society i.e. Bhartiya Kala Prasarani Sabha. They have challenged the legality of the order dated 25.11.2003 passed by the learned Presiding Officer, Debt Recovery Tribunal at Pune in M.A.No. 52 of 2003. Mr.Anturkar submitted that M.A.No. 52 of 2003 was filed under section 31-A of the Recovery of Debts Due to Banks and Financial Institutions, Act 1993 and Smt.Kulkarni, the learned counsel appearing for the respondent no.2-Bank pointed out that the said order

is already a subject-matter of challenge in Appeal No. 394 of 2004 before the appellate Tribunal at Mumbai. The main grievance of Mr.Anturkar appears to be that the application M.A.No. 52 of 2003 itself was not maintainable inasmuch as the decree sought to be executed in the said application was passed by the trial Court on 17.12.2000 whereas the amendment of Act 1 of 2000, has come into force from 17.1.2000. These are the issues which can be looked into in the pending appeal and when a statutory remedy of appeal has already been invoked, this petition could not be maintainable. The petitioners may approach the appellate Tribunal if so advised.

2. Petition is therefore disposed of with liberty to the petitioners as may be available in law.

[B.H.MARLAPALLE,J.]